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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re

LEHMAN BROTHERS HOLDINGS INC., *et al.*,

Debtors.

CHAPTER 11

CASE No. 08-13555 (JMP)

(Jointly Administered)

**RESPONSE OF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, TO THE
DEBTORS' ONE HUNDRED FIFTY-SIXTH OMNIBUS OBJECTION TO CLAIMS**

TO THE HONORABLE JAMES M. PECK
UNITED STATES BANKRUPTCY JUDGE:

NOW COMES U.S. Bank National Association, not individually but as Trustee (“*U.S. Bank*” or the “*Trustee*”), by and through its counsel, Chapman and Cutler LLP, to respond (the “*Response*”) to the Debtors’ One Hundred Fifty Sixth Omnibus Objection to Claims

(No Liability Derivatives Claims) (the “*Objection*”). In support of its Response, the Trustee states as follows:¹

SUMMARY

U.S. Bank filed a number of claims in these bankruptcy proceedings as the Trustee for certain securitization trusts with respect to swap transactions between the relevant securitization trust and a Lehman Debtor. Pursuant to the Objection, the Debtors seek to disallow the following claims: Claim Numbers 31042, 32916, 32917, 32920, 32921, 32934, 32935, 32960, 32986, 32987, 32988, 32989, 32993 and 32994 (the “*Claims*”). The Debtors allege that they have “no liability” with respect to the Claims on grounds that the underlying swap or derivative contract has terminated or matured without any amounts being owed by the relevant Lehman counterparty. U.S. Bank agrees with the Debtor with respect to the following Claims: Claim Numbers 31042, 32988 and 32989. With respect to the remaining claims (the “*Remaining Claims*”), however, U.S. Bank still has a viable claim for its fees and expenses in connection with preserving and protecting its postpetition interest in the relevant swap transactions.

Each of the Remaining Claims relate to interest rate swap transactions the Debtors entered into with various securitization trusts. Each of the swap transactions were “live” transactions at the initiation of the bankruptcy proceedings. U.S. Bank did not terminate these transactions. Each of these transactions, however, expired in accordance with the terms of the swap sometime after the Debtors filed for relief under Chapter 11 of the Bankruptcy Code.

On or before the bar date, U.S. Bank filed a claim against each of Lehman Brothers Special Financing, Inc. (“*LBSF*”) or Lehman Brothers Financial Products, Inc. (“*LBFP*”), and in some cases against Lehman Brothers Holdings Inc. (“*LBHI*”) as Credit Support Party. These proofs of claim asserted a contingent claim for any amounts that were due by the Lehman

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Objection.

counterparty and LBHI as Credit Support party, under the terms of the swap transaction, as well as for the fees and expenses of the Trustee. The Trustee has reviewed the terms of each of the swap transactions for the Remaining Claims and agrees that it appears that each has matured without any floating or fixed payments due and owing from LBSF, LBFP and/or LBHI. The Trustee believes, however, it remains entitled to the payment of its fees and expenses in connection with such swap transactions.

The filing by LBHI, and thereafter by LBSF and LBFP, of voluntary petitions under the Bankruptcy Code constitute a default under the terms of the relevant swap transaction. Section 11 of the 1992 version of the ISDA Master Agreement, in effect with respect to each of these swap transactions, provides as follows:

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees and Stamp Tax, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

1992 ISDA Master Agreement at 12-13. As a result of the filing of the petition, U.S. Bank incurred costs in connection with reviewing the terms and status of each of the swap transactions to determine whether or not the swap transactions should be terminated or continued, and in connection with filing various proofs of claim. A liquidated amount of these fee claims was set forth in each proof of claim, though each also noted that fees and expenses of the Trustee may continue to accrue. As a result, while U.S. Bank agrees that the Debtors do not owe any fixed or floating payments under the swap transactions, it believes that the Debtors owe the trusts the amount of fees and expenses incurred to date by the Trustee. U.S. Bank has reached out to the Debtors in the hopes of resolving this remaining portion of the Remaining Claims.

WHEREFORE, for all of the foregoing reasons, U.S. Bank, as Trustee, respectfully requests that this Court deny the relief requested in the One Hundred Fifty-Sixth Omnibus Objection as to the Remaining Claims: Claim Numbers 32916, 32917, 32920, 32921, 32934, 32935, 32960, 32986, 32987, 32993 and 32994.

Dated: July 13, 2011

Respectfully submitted,

U.S. BANK NATIONAL ASSOCIATION, not
individually but as Trustee

By: /s/ Franklin H. Top III
One of Its Attorneys

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